

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES)
)
vs.) No. 05-CR-30020 MAP
)
EDDIE SANTIAGO)

**DEFENDANT, EDDIE SANTIAGO, RESPONSE TO GOVERNMENT'S
INFORMATION**

Now comes Eddie Santiago, by and through counsel, and moves this Honorable Court for an order striking the Government's information, and as his basis, therefore, alleges the following:

The defendant denies each and every allegation of fact contained in the Government's information and calls upon the Government pursuant to Title 21 U.S.C. §851 (c)(1) to meet its burden of proof as to said facts.

Pursuant to Title 21 U.S.C. §851 (c)(2) the defendant, Eddie Santiago, alleges the convictions identified in the Government's information as the basis for an enhanced punishment was obtained in violation of the United States Constitution. As to such conviction the defendant asserts the following:

1. The defendant was denied the effective assistance of counsel in violation of his rights under the Sixth Amendment of the United States Constitution.
2. The defendant was denied his right to produce proofs favorable to his defense in violation of his rights under the Sixth Amendment to the United States Constitution.
3. The defendant's conviction was obtained in violation of his rights under the Fourth Amendment of the United States.
4. The defendant's conviction was obtained in violation of his rights under the Fifth Amendment to the United States Constitution.

In support of his request for an evidentiary hearing upon the issues so raised, the defendant asserts the following:

The defendant's arrest was warrantless, unsupported by an factual basis sufficient as a matter of law to establish probable cause therefore.

Counsel for defendant failed to conduct an investigation of the underlying facts and

circumstances of the case against the defendant. As a result, therefore, the defendant was deprived of an opportunity to challenge the search resulting in his arrest.

Counsel for the defendant was ineffective insofar as he failed to interview or subpoena for trial a witness who would have provided proof of the defendant's innocence as well as proof related to the legitimacy of the search directed against him.

As a result of counsel for the defendant's compound failures the defendant was coerced into pleading guilty in violation of his rights under the Fifth Amendment of the United States Constitution insofar as the failure to provide effective assistance of counsel lead the defendant to believe he could not successfully defend the accusations against him and was promised he would receive probation if he plead guilty.

WHEREFORE, the defendant moves the Government's information be stricken in anticipation of an evidentiary hearing on the issue so raised.

THE DEFENDANT

BY: /s/ Vincent A. Bongiorno, Esq.
95 State Street, Suite 309
Springfield, MA. 01103
(413) 732-0222
BBO #049040

CERTIFICATE OF SERVICE

I, Vincent A. Bongiorno, Esq., do hereby certify that I have served a copy of the foregoing via CM/ECF to the United States District Attorney, Federal Building & Courthouse, 1550 Main Street, Springfield, MA 01103 this 31 day of October 2006.

/s/ Vincent A. Bongiorno